



UNITED STATES PATENT AND TRADEMARK OFFICE

PV

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CALFEE HALTER & GRISWOLD, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

FEB 16 2006

In re Application of:	:	
FOX <i>et al.</i>	:	DECISION ON PETITION
Serial No.: 10/695,040	:	TO WITHDRAW HOLDING
Filed: October 27, 2003	:	OF ABANDONMENT
Attorney Docket No.: 21220/04146	:	

This is a decision on the petition filed August 15, 2005, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Restriction Requirement mailed on January 27, 2005. A Notice of Abandonment was mailed on August 01, 2005.

Petitioner asserts that the Office action mailed on January 27, 2005, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was provided to support the petition.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition is sufficient to establish a showing of non-receipt of the Office action mailed on January 27, 2005.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The response filed with the petition is accepted as timely, and will be entered into the record. The application will be sent to the examiner for further examination.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.



Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components